



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2014-0412; FRL-9912-71-Region 9]

Revisions to the California State Implementation Plan, Lake  
County Air Quality Management District

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking direct final action to approve a revision to the Lake County Air Quality Management District (LCAQMD) portion of the California State Implementation Plan (SIP). This revision concerns particulate matter (PM) emissions from agricultural compression engines and the definition of hazardous air pollutants (HAP). We are approving local rules under the Clean Air Act (CAA or the Act).

**DATES:** This rule is effective on [Insert date 60 days from the date of publication in the Federal Register] without further notice, unless EPA receives adverse comments by [Insert date 30 days from the date of publication in the Federal Register]. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

**ADDRESSES:** Submit comments, identified by docket number EPA-R09-

OAR-2014-0412, by one of the following methods:

1. Federal eRulemaking Portal: [www.regulations.gov](http://www.regulations.gov). Follow the on-line instructions.
2. E-mail: [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov).
3. Mail or deliver: Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

*Instructions:* All comments will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through [www.regulations.gov](http://www.regulations.gov) or e-mail.

[www.regulations.gov](http://www.regulations.gov) is an "anonymous access" system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any

form of encryption, and be free of any defects or viruses.

*Docket:* Generally, documents in the docket for this action are available electronically at [www.regulations.gov](http://www.regulations.gov) and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105-3901. While all documents in the docket are listed at [www.regulations.gov](http://www.regulations.gov), some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Idalia Pérez, EPA Region IX, (415) 972-3248, [perez.idalia@epa.gov](mailto:perez.idalia@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, "we," "us," and "our" refer to EPA.

## Table of Contents

### I. The State's Submittal.

- A. What rules did the State submit?
- B. Are there other versions of these rules?
- C. What is the purpose of the submitted rules?

### II. EPA's Evaluation and Action.

- A. How is EPA evaluating the rules?
- B. Do the rules meet the evaluation criteria?

C. EPA recommendations to further improve the rules.

D. Public comment and final action.

### III. Statutory and Executive Order Reviews

#### I. The State's Submittal

A. What rules did the State submit?

Table 1 lists the rules we are approving with the dates that they were adopted by the local air agency and submitted by the California Air Resources Board.

Table 1 - Submitted Sections

Local Agency	Section #	Section Title	Adopted	Submitted
LCAQMD	228	Hazardous Air Pollutants (HAP)	06/23/98	12/23/98
LCAQMD	470	Air Toxics Control Measure for Emissions of Toxic Particulate Matter from In-Use Agricultural Compression Ignition Engines	09/21/10	04/05/11

On June 23, 1999, the submittal for LCAQMD Rule 228 was deemed by operation of law to meet the completeness criteria in 40 CFR Part 51 Appendix V. On May 6, 2011, EPA determined that the submittal for LCAQMD Rule 470 met the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

B. Are there other versions of these rules?

There are no previous versions of Rules 228 or 470 approved into the SIP.

C. What is the purpose of the submitted rules?

Section 110(a) of the CAA requires States to submit regulations that control volatile organic compounds, oxides of nitrogen, PM, and other air pollutants which harm human health and the environment. Rule 228 was developed as part of the local agency's program to control these pollutants. It defines HAPs as "Those pollutants that are listed in the Federal Clean Air Act's Section 112(b) List of Hazardous Air Pollutants."

PM contributes to effects that are harmful to human health and the environment, including premature mortality, aggravation of respiratory and cardiovascular disease, decreased lung function, visibility impairment, and damage to vegetation and ecosystems. Section 110(a) of the CAA requires States to submit regulations that control PM emissions. Section 470 provides a local administrative program for registering compression ignition (CI) stationary engines used in agricultural operations and controlling air emissions from these sources by setting engine tier requirements for certain replacement units. EPA's technical support document (TSD) has more information about rule 470.

## II. EPA's Evaluation and Action

### A. How is EPA evaluating the rules?

Generally, SIP rules must be enforceable (see section 110(a) of the Act) and must not relax existing requirements (see sections 110(l) and 193). Rule 228 does not set emissions standards thus it does not have to meet a specific stringency requirement for emissions. Additionally, LCAQMD regulates an area that is classified as attainment for all National Ambient Air Quality Standards (NAAQS) (see 40 CFR Part 81.305), so Rule 470 does not have to meet a specific stringency requirement for emissions from this source category.

Guidance and policy documents that we use to evaluate enforceability requirements consistently include the following:

1. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations; Clarification to Appendix D of November 24, 1987 Federal Register Notice," (Blue Book), notice of availability published in the May 25, 1988 Federal Register.
2. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 (the Little Bluebook).

### B. Does the rules meet the evaluation criteria?

We believe these rules are consistent with the relevant policy and guidance regarding enforceability and SIP relaxations.

The Technical Support Document (TSD) has more information on our evaluation.

C. EPA recommendations to further improve the rule.

The TSD describes additional rule revisions that we recommend for the next time the local agency modifies Rule 470.

D. Public comment and final action.

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by [Insert date 30 days from date of publication in the Federal Register], we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on [Insert date 60 days from date of publication in the Federal Register]. This will incorporate the rules into the federally enforceable SIP.

Please note that if EPA receives adverse comment on an

amendment, paragraph, or section of either of these rules and if that provision may be severed from the remainder of the rules, EPA may adopt as final those provisions of the rules that are not the subject of an adverse comment.

### **III. Statutory and Executive Order Reviews**

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);



- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, these rules do not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose

substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [Insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may

be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the Proposed Rules section of today's Federal Register, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: May 30, 2014.

Jared Blumenfeld,  
Regional Administrator,  
Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

**PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS.**

1. The authority citation for Part 52 continues to read as follows:

**AUTHORITY:** 42 U.S.C. 7401 et seq.

Subpart F – California

2. Section 52.220 is amended by adding paragraphs (c) (388)

(i) (G) and (c) (443) to read as follows:

§52.220 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(388) \* \* \*

(i) \* \* \*

(G) Lake County Air Quality Management District.

(1) Lake County Air Quality Management District Board of Directors Resolution 2010-174 adopting Section 470, "Air Toxics Control Measure for Emissions of Toxic Particulate Matter from In-Use Agricultural Compression Ignition Engines," adopted on September 21, 2010, as "Exhibit A."

\* \* \* \* \*

(443) New and amended regulations for the following APCDs were submitted on December 23, 1998 by the Governor's Designee.

(i) Incorporation by Reference.

(A) Lake County Air Quality Management District.

(1) Lake County Air Quality Management District Board of Directors Resolution 98-195 adopting Section 228, "Hazardous Air Pollutants (HAP)," adopted on June 23, 1998, as "Exhibit A."